



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Hologic Patent Department
attn: Darry Pattinson
Sr. IP Paralegal
250 Campus Drive
Marlborough MA 01752

COPY MAILED

JAN 29 2009

OFFICE OF PETITIONS

In re Application of	:	
Snoeren et al.	:	
Application No. 10/623191	:	
Filing or 371(c) Date: 07/18/2003	:	ON PETITION
Attorney Docket Number:	:	
19.033011 (R-232)	:	

This is a decision on the request for reconsideration of petition under 37 CFR 1.137(b), filed November 28, 2008, to revive the above-identified application.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 17, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is March 18, 2008.

A petition to revive the application under 37 CFR 1.137(b), filed July 21, 2008, was dismissed in a Decision mailed November 6, 2008, for failing to meet the requirements of a grantable petition under 37 CFR 1.137(b).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee, and the submission required by 37 CFR 1.114; (2) the petition fee (filed with the original petition on April 17, 2007); and (3) a proper statement of unintentional delay (filed with the original petition on April 17, 2007)¹.

¹ 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appears in the original petition filed July 21, 2008, and the present petition requests reconsideration of the original petition, the renewed petition is being construed as incorporating the required statement of unintentional delay. Petitioner must notify the Office if this is not a correct reading of the statement appearing in the petition.

This application is being referred to Technology Center AU 2624 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

CC: LAW OFFICE OF BRIAN J. DAUITO
886 ILIMA COURT
PALO ALTO, CA 94306